



March 31, 2003

Ms. Rebecca Kane
Environmental Protection Agency
Office of Enforcement and Compliance Assurance
MC2222A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. Kane:

OMB Watch appreciates the opportunity to comment on the Environmental Protection Agency's (EPA) Enforcement and Compliance History Online (ECHO) website. OMB Watch supports efforts by the EPA to provide public access to timely, relevant environmental compliance information. The ECHO database is an important step by the EPA to significantly expand the amount and range of environmental information available to the public.

OMB Watch is a nonprofit research and advocacy organization that has as its core mission increasing government accountability and improving citizen participation. Public access to government information has been an important part of our work for more than fifteen years. For example, in 1989, we launched RTK NET, an online service providing public access to environmental data collected by EPA. Managing RTK NET has provided us both practical experience and policy experience with disseminating government information. Additionally, OMB Watch has been very engaged in agency regulatory processes, encouraging agency rules to be sensible and more responsive to public need.

Overall OMB Watch is extremely pleased with EPA's efforts developing the ECHO website. Unfortunately, many regulatory agencies have either forgotten the importance and benefits of disseminating information to the public or simply abandoned the practice. Current security concerns have quickly given way to broad policies of secrecy with little attention to the loss of security that occurs when citizens cannot readily access vital information about their environment and well-being.

Specific Questions for Consideration

After reviewing the ECHO website OMB Watch offers the following comments on the specific questions for which EPA requested consideration in the November 11, 2002 Federal Register Notice:

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1. Does the site provide meaningful and useful information about the compliance and enforcement program?

The ECHO site provides a great deal of useful information relating to facilities and their compliance with federal environmental laws including inspections, violations, and enforcement actions. The ECHO website utilizes a simplified format to provide citizens with useful overall information on the complex issue of environmental compliance. While EPA has provided online access to numerous databases, ECHO's intersection of federal and state databases is especially useful in allowing people to quickly access many types of compliance information in one place. The search options are extremely flexible, permitting users to access the information most relevant to them by zip code, county, SIC code, etc. Additionally, the demographic profile is a valuable tool for researching issues of environmental justice and EPA should be commended for including it in ECHO.

2. Is the site easy to navigate?

The website utilizes a user-friendly layout that is intuitive and easy to navigate. The information is practically presented in table formats that allow one to understand and quickly examine the diverse data presented through ECHO. The search menus are easy to operate with multiple parameters that assist users in easily pinpointing exact information. The ECHO website processes the results for even large complex searches relatively quickly. Buttons and links to other pages or resources are simple to locate and clearly labeled.

3. Does the help text adequately explain the data?

The data dictionary is extensive, detailed and straightforward in its explanations of many complex issues. The links to the data dictionary, at the top of each page and next to each table, are easy to notice while scrolling through facility information. The data dictionary buttons next to each table link directly to the section of the data dictionary associated with the topic of that table. The table buttons allows a user to quickly and easily get explanations without having to scroll through excessive entries or type in terms. While users retain the ability to return from the data dictionary to the facility data they were examining it would be an improvement if eventually at least some of the terms were clickable with data dictionary entries that would popup in small separate windows.

4. What additional features, content and/or modifications would improve the site?

While the ECHO website provides a tremendous amount of compliance information in an extremely usable format OMB Watch believes there are several improvements that could be made to the site.

- **More Data Detail:** While OMB Watch understands the need to simplify some of the compliance information in order to present it in a uniform format it would be a significant improvement if the ECHO website allowed users to access additional details. The current format could be maintained with links to more detailed

information about individual violations, data on enforceable discharges, emission parameters, and pending permits. This additional level of detail would allow interested users to more effectively and completely evaluate facilities' compliance history.

- **Additional Data:** EPA should expand the compliance topics covered in ECHO to include information on underground injection wells along with aquifer and recovery wells. These wells, which operate around the country, inject and store large quantities of hazardous waste and untreated sewage and stormwater. Similar to the permit compliance areas included in ECHO these wells must meet certain state and federal parameters in their permits. Citizens should be able to access information on the operations of wells that could have serious environmental impacts on aquifers and the drinking water they supply.
- **Totals:** While the search options allow a great deal of flexibility it only allows users to review relevant records individually. Currently if a user wishes to calculate totals for a search performed then they are forced to download the data and compute the figures themselves. For instance if a user wanted to know the total number of NPDES permit violations in a county for the past year, they would have to download the records for each facility in the county and add up the violations themselves. The ECHO website should allow users to calculate totals of various data (violations, significant noncompliance, penalties, etc.) for geographical regions (zip codes, counties, states), parent companies, and industries (SIC codes).
- **Averages:** Similar to the need for easily calculated totals ECHO would be greatly enhanced by providing data averages. ECHO should explore providing averages of violations, penalties and other data for geographic regions and industries. Averages would provide practical reference points for the rest of the data and especially for any data totals. The average would have to automatically update as information entries were altered or revised.

Additional Comments

In addition to the above comments on EPA's specific questions OMB Watch would like to submit the following comments and observations:

Data Accuracy Concerns

Certain comments on the ECHO website have included concerns about the accuracy of the information contained on ECHO and expressed the opinion that the information should not be made public until it has been verified. It should first be noted that all of the information ECHO presents online is and has been public for quite sometime. The ECHO website is merely another format for accessing this information – a faster more flexible and comprehensive format.

Some comments claim that is the new universal nature of the online format that requires EPA to remove and withhold information until it has been confirmed. However, EPA explains on its "Frequently Asked Questions" page that it has already taken "extraordinary steps" to ensure the data is as accurate as possible. The ECHO site builds off of two previous EPA efforts and significant data quality activities including a comprehensive review conducted by EPA and the States. The EPA has also provided a simple online tool to allow the reporting of any data errors and has acquired a commitment of resources from every state to assist in analyzing error claims and correcting any inaccurate data as quickly as possible. The EPA has taken every reasonable step to provide the most accurate data currently available and has even established methods to improve that data.

Indeed it should be acknowledged that dissemination plays a useful role in improving the accuracy of information. Distributing information to the public enables an enormous number of people to examine the data. Dozens of informed personnel associated with a facility or company can simultaneously check facility compliance information rather than having one individual at a facility review the figures. Additionally, concerned citizens and community groups expressing their unease with certain reported information may bring attention to unnoticed data errors or anomalies and provide plenty of incentive to immediately correct the records. The broad dissemination of the information EPA has in its databases is likely one of the best ways to improve the EPA's records and even enhance the methods under which information is reported and archived.

Noncompliance Status

Several comments submitted about ECHO complain that the information inaccurately equates allegations of noncompliance with actual noncompliance. Generally the comments making such complaints also request that EPA provide alter all of the entries for non-finalized noncompliance listings. OMB Watch respectfully disagrees with this entire argument. Since a regulatory agency, barring being overruled by a court, is the first and final authority on compliance, then if they list a facility as noncompliant, the facility is noncompliant unless and until it is established differently to the agency's satisfaction. A notice of noncompliance is not an accusation that the regulatory agency must prove or confirm. If the agency's notice of noncompliance is disputed then the burden falls upon the facility to prove that the notice is incorrect and the facility has been compliant with the regulations in question.

It is for these very same reasons that OMB Watch also strongly disagrees with any requests that EPA remove information from the ECHO website simply because a possible error has been reported. While it would be accurate and useful to provide a notice to ECHO users that an error on a specific facility record has been reported and is being investigated, it would be premature and overreaching for EPA to remove the information while examining the error report.

Security Concerns

Several commenters have also claimed that the information contained in the ECHO database should not be made available online because it is too dangerous given recent concerns with terrorism and homeland security. OMB Watch urges EPA to reject these opportunistic arguments that attempt to disguise the selfish motives of the regulated community as concern for public safety and security. These comment fail to acknowledge the improvement in public safety that could result from arming citizens with information on chronically noncompliant facilities in or near their communities. Such facilities, and even those only occasionally noncompliant, threaten the health and welfare of thousands on a daily basis with almost no public scrutiny.

Attempting to preserve the status quo of broad public ignorance on the environmental compliance history of facilities by vaguely raising the specter of terrorism is insulting. No commenter explained what specific information in the ECHO database was so dangerous it could not be provided or how this supposedly dangerous information could possibly be misused. In fact the information contained in ECHO is neither a dangerous topic nor is it nearly specific enough to be useful to terrorists in any way. Indeed how would knowing that a facility violated its water permit aid in plotting a terrorist attack? Even if more detailed information on violations were provided the data would not contain the type of information and facility specifics that would be dangerous (i.e. where chemicals are stored, security measures, etc). Additionally, all of the information on ECHO is available elsewhere, in both federal and state databases and reading rooms. Therefore removing the ECHO website does not actually protect any of the information. It merely prevents the general public and public interest groups from easily analyzing the data in detail and using the findings to press for more effective regulations and consistent enforcement.

Conclusion

OMB Watch congratulates the EPA for constructing in the ECHO website a tool that enables the public to quickly and easily acquire as well as understand the complex information related to facilities and violations of federal environmental laws. This website is another step in EPA's laudable and continuing efforts to provide the public with needed information to understand and engage in environmental issues and concerns in their communities. OMB Watch urges EPA to maintain the ECHO website and continue to explore ways to expand and improve upon the information provided.

Thank you for consideration of our views.

Sincerely,

Sean Moulton
Senior Policy Analyst